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REGION 6

ADMINISTRATIVE RECORDS SECTION

IN THE MATTER OF

**Louisiana Energy &
Environmental Inc.
Bateman Lake Field
St. Mary Parish, LA**

Respondent

**CWA SECTION 311 CLASS I
CONSENT AGREEMENT
AND FINAL ORDER**

UNDER 40 CFR § 22.13(b)

Docket No. **CWA-06-2015-4813**

LEGAL AUTHORITY

1. This Consent Agreement is proposed and entered into under the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA") by Section 311(b)(6)(B)(i) of the Clean Water Act ("Act"), 33 U.S.C. § 1321(b)(6)(B)(i), as amended by the Oil Pollution Act of 1990, and under the authority provided by 40 CFR §§ 22.13(b) and 22.18(b)(2). The Administrator has delegated these authorities to the Regional Administrator of EPA, Region 6, who has in turn delegated them to the Director of the Superfund Division of EPA, Region 6, who has, by his concurrence, re-delegated the authority to act as Complainant to the Associate Director Prevention and Response Branch in Region 6, Delegation No. R6-2-51, dated February 13, 2008 ("Complainant").

CONSENT AGREEMENT

Stipulations

The parties, in their own capacity or by their attorneys or other authorized representatives, hereby stipulate:

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2. Section 311(j)(1)(C) of the Act, 33 USC § 1321(j)(1)(C), provides that the President shall issue regulations "establishing procedures, methods, and equipment and other requirements for equipment to prevent discharges of oil from onshore or offshore vessels and from onshore or offshore facilities, and to contain such discharges."

3. Initially by Executive Order 11548 (July 20, 1970), 35 Fed. Reg. 11677 (July 22, 1970), and most recently by Section 2(b)(1) of Executive Order 12777 (October 18, 1991), 56 Fed. Reg. 54757 (October 22, 1991), the President delegated to EPA his Section 311(j)(1)(C) authority to issue the regulations referenced in the preceding Paragraph for non-transportation-related onshore and offshore facilities.

4. Through Executive Order 12777 (October 18, 1991), 56 Fed. Reg. 54757 (October 22, 1991), the President delegated to DOI, responsibility for spill prevention and control, contingency planning, and equipment inspection activities associated with offshore facilities. Subsequently, pursuant to section 2(i) of E.O. 12777, the Secretary of the Interior re-delegated, and the Administrator of EPA agreed to assume (MOU published as Appendix B to 40 CFR Part 112), responsibility for non-transportation-related offshore facilities located landward of the coast line.

5. EPA promulgated the Spill Prevention Control & Countermeasure (SPCC) regulations pursuant to delegated statutory authorities, and pursuant to its authorities under the Clean Water Act, 33 USC § 1251 *et seq.*, which established certain procedures, methods and other requirements upon each owner and operator of a non-transportation-related onshore or off-shore facility, if such facility, due to its location, could reasonably be expected to discharge oil into or upon the navigable waters of the United States and their adjoining shorelines in such quantity as EPA has determined in 40 CFR § 110.3 may be harmful to the public health or welfare or the

environment of the United States (“harmful quantity”).

6. In promulgating 40 CFR § 110.3, which implements Section 311(b)(4) of the Act, 33 USC § 1321(b)(4), EPA has determined that discharges of harmful quantities include oil discharges that cause either (1) a violation of applicable water quality standards or (2) a film, sheen upon, or discoloration of the surface of the water or adjoining shorelines, or (3) a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines.

7. Respondent is a firm conducting business in the State of Louisiana, with a place of business located at 19321 Belleau Wood., Dr. Humble, TX, 77338 and is a person within the meaning of Sections 311(a)(7) and 502(5) of the Act, 33 U.S.C. §§ 1321(a)(7) and 1362(5), and 40 CFR § 112.2.

8. Respondent is the owner within the meaning of Section 311(a)(6) of the Act, 33 USC § 1321(a)(6), and 40 CFR § 112.2 of an oil production facility, located in St. Mary Parish, Louisiana (“the facility”). The approximate coordinates of the facility are 29.59108° N and - 91.24152° W. Drainage from the facility travels to the Atchafalaya River.

9. The facility has an aggregate above-ground storage capacity greater than 1320 gallons of oil in containers each with a shell capacity of at least 55 gallons. Facility capacity is approximately 658,980 gallons.

10. The Atchafalaya River is a navigable waters of the United States within the meaning of 40 CFR § 112.2.

11. Respondent is engaged in drilling, producing, gathering, storing, processing, refining, transferring, distributing, using or consuming oil or oil products located at the facility.

12. The facility is a non-transportation-related facility within the meaning of 40 CFR § 112.2 Appendix A, as incorporated by reference within 40 CFR § 112.2.

13. The facility is an offshore facility within the meaning of Section 311(a)(10) of the Act, 33 USC § 1321(a)(11), 40 CFR § 112.2, and 40 CFR § 112 Appendix B.

14. The facility is therefore a non-transportation-related offshore facility which, due to its location, could reasonably be expected to discharge oil to a navigable water of the United States or its adjoining shorelines in a harmful quantity ("an SPCC-regulated facility").

15. Pursuant to Section 311(j)(1)(C) of the Act, E.O. 12777, and 40 CFR § 112.1 Respondent, as the owner of an SPCC-regulated facility, is subject to the SPCC regulations.

16. The facility began operating on or prior to November 10, 2011.

Allegations

17. 40 CFR § 112.3 requires that the owner or operator of an SPCC-regulated facility must prepare a SPCC plan in writing, and implement that plan in accordance with 40 CFR § 112.7 and any other applicable section of 40 CFR Part 112.

18. On March 25, 2015 EPA inspected the facility and found that Respondent had failed to fully implement its SPCC plan for the facility. Respondent failed to fully implement such an SPCC plan for the facility as follows:

- a. Respondent failed to describes physical layout of facility and includes a diagram that identifies location, storage, completely buried tanks, transfer station and connecting pipes in accordance with 40 CFR § 112.7(a)(3)(i).
- b. Respondent failed to include a prediction of the direction, rate of flow, and total quantity of oil that could be discharged for each type of major equipment failure where experience indicates a reasonable potential for equipment failure in accordance with 40 CFR § 112.7(b).
- c. Respondent failed to adequately discuss in plan and fully implement in field, containment and/or diversionary structures or equipment to prevent a discharge. The entire containment system including walls and floors, must be capable of containing oil and should be constructed to capacity for secondary containment address the typical failure mode in accordance with 40 CFR § 112.7(c).

- d. Respondent failed to conduct inspections and tests in accordance with written procedure, failed to keep written records and tests signed by the appropriate supervisor or inspector, and failed to keep them with the SPCC Plan for a period of three years in accordance with 40 CFR § 112.7(e).
- e. Respondent failed to train oil-handling personnel in operation and maintenance of equipment to prevent discharges; discharges procedure protocols; applicable pollution control laws, and regulations, general facility operations, and contents of SPCC Plan and respondent failed to conduct discharge prevention briefings conducted at least once a year for oil handling personnel to assure adequate understanding of the Plan in accordance with 40 CFR § 112.7(f)(1) and (f)(3).
- f. Respondent failed to discuss in plan adequately sized sump and drains, failed to discuss making available a spare pump to remove liquid from the sump and assure that oil does not escape, and failed to discuss regularly scheduled preventive maintenance inspection and testing program to assure reliable operation of pump start-up device in accordance with 40 CFR § 112.11(c).
- g. Facility failed to discuss in plan for separator and treaters that are equipped with dump valves which predominantly fail in the closed position and where pollution risk is high in accordance with 40 CFR § 112.11(d).
- h. Respondent failed to discuss in plan equipping atmospheric storage or surge containers equipped with high liquid level sensing devices that activate an alarm or control the flow or otherwise prevent discharges in accordance with 40 CFR § 112.11(e).
- i. Respondent failed to discuss in plan for pressure container equipping with high and low pressure sensing devices that activate an alarm or control the flow in accordance with 40 CFR § 112.11(f).
- j. Respondent failed to equip containers with suitable corrosion protection in accordance with 40 CFR § 112.11(g).
- k. Respondent failed to discuss in plan and failed to implement written procedures for inspecting and testing pollution prevention equipment and systems in accordance with in accordance with 40 CFR § 112.11(h).
- l. Respondent failed to discuss in plan and failed to conduct tests and inspections on pollution prevention equipment and systems on a scheduled periodic basis commensurate with the complexity, conditions, and circumstances of the facility and any other applicable regulations.

Additionally, the facility failed to discuss in plan and failed to conduct simulated discharges used for tests and inspections of human and equipment pollution control and countermeasure systems in accordance with 40 CFR § 112.11(i).

- m. Respondent failed to provide detailed records of surface and subsurface well shut-in valves and devices in use at the facility for each well. Additionally, the facility failed to ensure that records were sufficient to determine the method of activation or control in accordance with 40 CFR § 112.11(j).
- n. Respondent failed to discuss in plan and failed to implement in the field protection from corrosion, such as protective coatings or cathodic protection for piping and appurtenances in accordance with 40 CFR § 112.11(n).
- o. Respondent failed to discuss in plan and failed to implement in field adequate protection of sub-marine piping against environmental stresses in accordance with 40 CFR § 112.11(o).
- p. Respondent failed to implement periodic inspections or tests, at a regular schedule on sub-marine piping and appurtenances for failure prevention and failed to maintain records of inspections or tests in accordance with 40 CFR § 112.11(p).

19. Respondent's failure to fully implement its SPCC plan for the facility violated 40 CFR § 112.3, and impacted its ability to prevent an oil spill.

Waiver of Rights

20. Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the other specific violations alleged above. Respondent waives the right to a hearing under Section 311(b)(6)(B)(i) of the Act, 33 U.S.C. § 1321(b)(6)(B)(i), and to appeal any Final Order in this matter under Section 311(b)(6)(G)(i) of the Act, 33 U.S.C. §1321(b)(6)(G)(i), and consents to the issuance of a Final Order without further adjudication.

Penalty

21. The Complainant proposes, and Respondent consents to, the assessment of a civil penalty of **\$18,497.00**.

Payment Terms

Based on the forgoing, the parties, in their own capacity or by their attorneys or authorized representatives, hereby agree that:

21. Within thirty (30) days of the effective date of the Final Order, the Respondent shall pay the amount of **\$18,497.00** by means of a cashier's or certified check, or by electronic funds transfer (EFT). The Respondent shall submit this Consent Agreement and Final Order, with original signature, along with documentation of the penalty payment to:

OPA Enforcement Coordinator
U. S. Environmental Protection Agency
Region 6 (6SF-PC)
1445 Ross Avenue
Dallas, Texas 75202-2733

- If you are paying by check, pay the check to "Environmental Protection Agency," noting on the check "**OSTLF-311**" and docket number **CWA-06-2015-4813**. If you use the U.S. Postal Service, address the payment to:

U.S. Environmental Protection Agency, Fines & Penalties
P.O. Box 979077, St. Louis, MO 63197-9000

- If you use a private delivery service, address the payment to:

U.S. Bank
1005 Convention Plaza, Mail Station SL-MO-C2GL
St. Louis, MO 63101

- The Respondent shall submit copies of the check (or, in the case of an EFT transfer, copies of the EFT confirmation) to the following person:

Lorena Vaughn
Regional Hearing Clerk (6RC)
U.S. Environmental Protection Agency
Region 6
1445 Ross Avenue
Dallas, TX 75202-2733

22. Failure by the Respondent to pay the penalty assessed by the Final Order in full by its due date may subject Respondent to a civil action to collect the assessed penalty, plus interest, attorney's fees, costs and an additional quarterly nonpayment penalty pursuant to Section 311(b)(6)(H) of the Act, 33 USC §1321(b)(6)(H). In any such collection action, the validity, amount and appropriateness of the penalty agreed to herein shall not be subject to review.

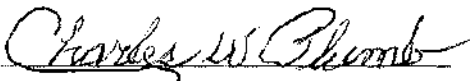
General Provisions

23. The Final Order shall be binding upon Respondent and Respondent's officers, directors, agents, servants, employees, and successors or assigns.

24. The Final Order does not constitute a waiver, suspension or modification of the requirements of Section 311 of the Act, 33 USC §1321, or any regulations promulgated thereunder, and does not affect the right of the Administrator or the United States to pursue any applicable injunctive or other equitable relief or criminal sanctions for any violation of law. Payment of the penalty pursuant to this Consent Agreement resolves only Respondent's liability for federal civil penalties for the violations and facts stipulated to and alleged herein.

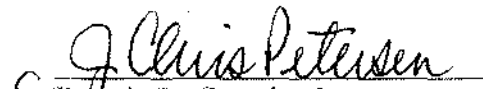
Louisiana Energy & Environmental Inc.

Date: June 17, 2015


Charles W. Plumb C.E.O.

U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: 6/23/15


Ronnie D. Crossland
Associate Director
Prevention & Response Branch
Superfund Division

FINAL ORDER

Pursuant to Section 311(b)(6) of the Act, 33 USC §1321(b)(6) and the delegated authority of the undersigned, and in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits," codified at 40 CFR Part 22, the forgoing Consent Agreement is hereby approved and incorporated by reference into this Final Order, and the Stipulations by the parties and Allegations by the Complainant are adopted as Findings in this Final Order.

The Respondent is ordered to comply with the terms of the Consent Agreement.

Date: _____

6/23/15



Carl Edlund, P.E.

Director

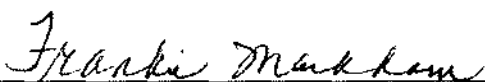
Superfund Division

CERTIFICATE OF SERVICE

I certify that the original and one copy of the foregoing "Consent Agreement and Final Order," issued pursuant to 40 C.F.R. 22.13(b), was filed on 6-24, 2015, with the Regional Hearing Clerk, U.S. EPA Region 6, 1445 Ross Avenue, Dallas, TX 75202-2733; and that on the same date a copy of the same was sent to the following, in the manner specified below:

Copy by certified mail,
return receipt requested:
7012 3460 0002 4060 9936

NAME: Mr. Charles W. Plumb
ADDRESS: P. O. BOX 691187
Houston, TX 77269


Frankie Markham
Frankie Markham
OPA Enforcement Administrative Assistant